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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/761,112 | 01/16/2001 | Richard S. Slevin | 20042-7001 | 3637 |

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EXAMINER

ZIA, SYED

ART UNIT PAPER NUMBER

2131

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/761,112 | Applicant(s) SLEVIN, RICHARD S. | |
| | Examiner Syed Zia | Art Unit 2131 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>01/2001, 09/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 06, 2005 has been entered.

Response to Amendment

This office action is in response to amendment filed on June 06, 2005. Original application contained Claims 1-2. Applicant previously added new Claims 3-49. Applicant currently amended Claims 1-3, 24, 26, and 47-49. Amendment filed have been entered and made of record. Presently pending claims are 1-49.

Response to Arguments

Applicant's arguments filed on June 06, 2005 have been fully considered but they are not persuasive because of the following reasons:

Regarding independent and dependent Claims 1-49 applicants argued that the cite prior art does not teach, " *the term "gating", the present invention includes the idea that an electronic device (e.g. a computer or an electronic clock) is not energized unless and until the biometric profile and the biometric signature bear a required relationship "*.

This is not found persuasive. The system of cited prior arts (CPA) [Novikov et al. (U. S. Patent 6,282,304)] clearly teach system and method of biometric comparison that involves determining whether obtained maximum similarity measure is greater than threshold value based on which sameness of reference and acquired fingerprint data, is indicated Provides an ergonomically advantageous biometric input device, which ensures increased precision in sampling biometric data. Provides biometric data comparison method which controls access to computers or data networks. Provides method for accurate and rapid comparison of fingerprint while compensating for environmental and physiological factors. Permits user to graphically apply biometric access control features to data and applications by the use of user manipulated biometric protection icon. Reference directional image data and minutia data set with directional image data and minutia data set obtained by scanning of fingerprint, are successively compared by shifting the position of the directional image and minutia data set for every comparison. The maximum similarity is measured. When it is greater than threshold, the similarity of fingerprint data is indicated.

As a result, the system of cited prior art(s) does implement and teaches a system and method that relates to biometric access control of power gating provided to operate components of the electronic device.

Applicants clearly have failed to explicitly identify specific claim limitations, which would define a patentable distinction over prior arts.

The examiner is not trying to teach the invention but is merely trying to interpret the claim language in its broadest and reasonable meaning. The examiner will not interpret to read narrowly the claim language to read exactly from the specification, but will interpret the claim language in the broadest reasonable interpretation in view of the specification. Therefore, the examiner asserts that the system of cited prior arts does teach or suggest the subject matter broadly recited in independent Claims and in subsequent dependent Claims. Accordingly, rejections for claims 1-49 are respectfully maintained.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Novikov et al. (U. S. Patent 6,282,304).

3. Regarding Claim 1 Novikov teach and describe an access control system, comprising:

- an electronic device adapted for operation using power from a power source, said power source energizing a circuit of said electronic device for enabling a startup procedure of said electronic device; a biometric-controlled switch, coupled between said power source and said processor, for enabling said energizing of said circuit responsive to an assertion of a biometric activation signal (col.5 line 6 to col.7 line 16); and

- a biometric reader coupled to said biometric-controlled switch, comprising: a memory for storing a biometric signature (col.5 line 15 to line 25); a biometric sensor, coupled to said memory, for discerning a biometric profile (col.5 line 26 to line 42); and a verifier (col.9 line 60 to line 65), coupled to said biometric sensor and to said memory, for asserting said biometric activation signal when said biometric profile matches said biometric signature wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal(col.13 line 14 to line 20, and col.17 line 11 to line 19).

4. Regarding Claim 2 Novikov teach and describe a method for controlling access to an electronic device, comprising:

- discerning a biometric profile of a prospective user of the electronic device (col.5 line 26 to line 42); and comparing said biometric profile to a stored biometric signature of an authorized user of the electronic device; thereafter asserting a biometric activation signal to a biometric-controlled switch when said prospective user is an authorized user, said biometric-controlled switch interposed between a power source for the electronic device and a circuit of the electronic device for enabling a startup procedure of said electronic device such that said biometric-controlled switch interrupts power to said circuit when said activation signal is not asserted

wherein said startup procedure is inoperable from said power source until said assertion of said biometric activation signal (col.5 line 25 to line 42, col.13 line 14 to line 20, and, and col.16 line 56 to col.17 line 19).

5. Regarding Claim 3 Novikov teach and describe a biometric system, comprising'.
an electronic device operable from power provided from a power source, a biometric-controlled switch, coupled to said electronic device, for gating said power from said power source responsive to a biometric activation signal (Fig.1, col.5line 6 to line 52, and col.9 line 10 to line 18); and a biometric reader for asserting said biometric activation signal responsive to a verification of a user biometric signature wherein said electronic device is inoperable from said power source until said biometric activation signal is asserted (col.5 line 26 to line 32).

6. Regarding Claim 24 Novikov teach and describe a biometric-mediated access method, comprising.

establishing a biometric profile from a prospective user (col.16 line 21 to line 55);

comparing said biometric profile to a biometric signature; asserting a biometric activation signal when said profile and said signature match; and gating, responsive to said biometric activation signal, power from a power source to an electronic device to enable operation of said electronic device wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal (col.16 line 56 to col.17 line 19).

7. Regarding Claim 26 Novikov teach a biometrics-mediated access method, comprising:

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a) asserting a biometric activation signal responsive to a verification of a user biometric signature (col.16 line 56 to col.17 line 19); and

b) gating, responsive to said biometric activation signal, power from a power source to an electronic device operable from said power using a biometric-controlled switch operably disposed between said power source and said electronic device wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal (col.5 line 6 to line 52, and col.9 line 10 to line 18).

8. Regarding Claim 47 Novikov teach and describe a computer program product comprising a computer readable medium carrying program instructions for powering an electronic device when executed using a computing system, the executed program instructions executing a method (col.8 line 25 to line 48), the method comprising:

a) asserting a biometric activation signal responsive to a verification of a user biometric signature (col.16 line 56 to col.17 line 19); and

b) gating, responsive to said biometric activation signal, power from a power source to the electronic device operable from said power using a biometric-controlled switch operably disposed between said power source and the electronic device (col.5 line 6 to line 52, and col.9 line 10 to line 18).

9. Regarding Claim 48 Novikov teach and describe a propagated signal on which is instructions which is carried computer-executable instruction which when executed by a

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computing system performs a method (col.5 line 19 to line 25, and col.5 line 60 to line 67), the method comprising.

a) asserting an activation signal responsive to a verification of a user biometric signature (col.16 line 56 to col.17 line 19); and

b) gating, responsive to said activation signal, power from a power source to the electronic device operable from said power using a switch operably disposed between said power source and said electronic device wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal (col.5 line 6 to line 52, and col.9 line 10 to line 18).

10. Regarding Claim 49 Novikov teach and describe a biometric-apparatus, comprising.

means, responsive to a verification of a user biometric signature, for asserting a biometric activation signal to enable a power source (col.16 line 56 to col.17 line 19), and

means, responsive to said biometric activation signal, for gating power from said power source to an electronic device operable from said power using a biometric-controlled switch operably disposed between said power source and said electronic device wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal (col.5 line 6 to line 52, and col.9 line 10 to line 18).

11. Claims 4-15, 18, 21, 25, 27-29, 32-37, 38, 41, and 44 are rejected applied as above rejecting Claims 3, 24, and 26. Furthermore, Novikov teach and describe a biometric access control of power gating provided to operate components of the electronic device, wherein:

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- said biometric signature includes a fingerprint, a retinal pattern (col.9 line 67 to col.10 line 9),

- said portable electronic device, a personal data assistant (PDA), includes a laptop computer (col.1 line 53 to line 57);

- said power source includes a battery, a power supply, a direct power (col.9 line 18 to line 27);

- said switch is integrated into said electronic, said power source, said biometric reader, and said switch is a state device for storing an operational mode (Fig.1, col.5 line 33 to line 42);

- said electronic device includes a plurality of BIOS routines and wherein said switch selectively activates one or more of said BIOS routines responsive to said activation signal (Fig.1, Item 50, 54, and 57).

- said electronic device enables access to a set of resources responsive to an authentication and wherein said switch provides said authentication responsive to said activation signal (col.5 line 33 to line 42).

- said gating step d) operation enablement includes initiating a boot sequence of said electronic device (col.8 line 8 to line 25);

12. Claims 16,19, 22, 30-31, 39, 42, and 45 are rejected applied as above rejecting Claims 15, 18, 21, 29, 38, 41, and 44. Furthermore, Novikov teach and describe a biometric access control of power gating provided to operate components of the electronic device, wherein:

- said operational mode maintains said gating of said power from said power source after receiving an asserted activation signal (col.8 line 8 to line 60).

- said biometric reader discriminates between a first user and a second user, with said activation signal identifies a particular one of said users (col.9 line 28 to line 60);

- biometric reader for asserting said activation signal responsive to said verification of said biometric signature, the method further comprising discriminating between a first user and a second user, with said activation signal identifying a particular one of said users (col.8 line 8 to line 60, and col.9 line 28 to line 60).

13. Claims 17, 20, 23, 40, 43, and 46 are rejected applied as above rejecting Claims 16, 19, 22, 39, 42, and 45. Furthermore, Novikov teach and describe a biometric access control of power gating provided to operate components of the electronic device, wherein:

- said operational mode is reset to disable said power from said power source when said electronic device is inactivated pending reassertion of said activation signal (col.5 line 33 to line 42);

- said switch selectively activates said one or more said BIOS routine responsive to said particular one user with said switch activating a different one or more of said BIOS routines for said first user than activated for said second user (Fig.1, Item 50, 54, and 57, and col.9 line 28 to line 60);

- said switch selectively enables access to one or more resources of said set of resources responsive to said particular one user with said switch signaling enablement of a different one or more resources for said first user than enabled for said second user (col.5 line 33 to line 42);

- said portable electronic device includes a personal data assistant (PDA), and a laptop computer (col.1 line 53 to line 57);

- resetting said operational mode to disable said power from said power source when said electronic device is inactivated pending a reassertion of said activation signal (col.5 line 33 to line 42);

- activating selectively said one or more said BIOS routine responsive to said particular one user wherein a different one or more of said BIOS routines are activated for said first user than are activated for said second user (Fig.1, Item 50, 54, and 57, and col.9 line 28 to line 60);

- selectively enabling access to one or more resources of said set of resources responsive to said particular one user with a different one or more resources enabled for said first user than are enabled for said second user (Fig.1, Item 50, 54, and 57, and col.9 line 28 to line 60).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 571-272-3798. The examiner can normally be reached on 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SZ

September 6, 2005

A handwritten signature in black ink, appearing to be "S. Z.", is written over the date "September 6, 2005".